

MARTIN H. ORLICK, SBN 83908, mho@jmbm.com
MATTHEW S. KENEFICK, SBN 227298, msk@jmbm.com
JEFFER, MANGELS, BUTLER & MARMARO LLP
Two Embarcadero Center, 5th Floor
San Francisco, California 94111
Telephone: (415) 398-8080
Facsimile: (415) 398-5584

Attorneys for Specially Appearing Defendant
CITY OF SAN FRANCISCO UPTOWN PARKING
CORPORATION, a California non-profit corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRAIG YATES,

Plaintiff,

v.

UNION SQUARE; CITY AND COUNTY OF
SAN FRANCISCO; CITY OF SAN
FRANCISCO UPTOWN PARKING
CORPORATION; EMPORIO RULLI IL
CAFFE UNION SQ.; EMPORIO RULLI IL
CAFFE UNION SQ., INC.; and DOES 1
through 50, Inclusive,

Defendants.

CASE NO. C 07 4087 EDL

***EX PARTE APPLICATION FOR
EXTENSION OF TIME FOR SPECIALLY
APPEARING DEFENDANT, CITY OF SAN
FRANCISCO UPTOWN PARKING
CORPORATION TO FILE A RESPONSE
TO CIVIL COMPLAINT; MEMORANDUM
OF POINTS AND AUTHORITIES; AND
SUPPORTING DECLARATION OF
MARTIN H. ORLICK, ESQ***

[Local Rule 6-3 and Local Rule 7-10]

No hearing requested

Defendant City of San Francisco Uptown Parking Corporation ("UPC") hereby
applies ex parte to this Court for an order to extend the time for UPC to file a responsive pleading.

This ex parte application is brought on the grounds that UPC retained the law firm of
Jeffer, Mangels, Butler & Marmaro LLP ("JMBM") on August 27, 2007 and counsel needs more
time to evaluate the allegations of the Complaint.

A supporting Declaration of Martin H. Orlick is filed and served concurrently
herewith.

BACKGROUND

On August 9, 2007, Plaintiff, CRAIG YATES ("Yates") filed this lawsuit against Defendant CITY OF SAN FRANCISCO UPTOWN PARKING CORPORATION ("UPC"), CITY AND COUNTY OF SAN FRANCISCO and three (3) other defendants (collectively, the "Defendants") alleging Violations of the Americans with Disabilities Act and correlative California statutory provisions, at the Union Square garage in downtown San Francisco. Pursuant to Federal Local Rule 6-3, UPC respectfully requests that the Court enter an Order: extending the time for it and all other Defendants, who have been served with process, to respond to the Complaint on file herein to and including September 28, 2007, to allow the Defendants sufficient time to analyze the facts, evaluate the alleged access barriers, devise a response, review public building records and inspect the property. It is submitted that this request for a single date for all Defendants, who have been served with process, to file and serve their responses will promote efficient case management without any prejudice to the Plaintiff.

The Complaint was filed August 9, 2007. UPC was served August 13, 2007. Plaintiff's counsel, Timothy S. Thimesch, Esq., refused to grant a basic professional courtesy for a brief extension of time for Defendant to respond to the Complaint. See Orlick declaration served and filed herewith.

On August 24, 2007, Jeffer, Mangels, Butler & Marmaro LLP ("JMBM") was contacted by UPC's corporate counsel, Paul Newman, Esq., regarding our possible retention to defend UPC and the City and County of San Francisco in this case.

On August 27, 2007, Mr. Orlick discussed the case and JMBM's possible representation of UPC and the City and County of San Francisco with Mr. Newman.¹ JMBM agreed to represent UPC, and the City and County of San Francisco, the latter subject to obtaining a necessary Conflict Waiver. Such waiver has not yet been obtained.

On August 27, 2007, immediately after Mr. Orlick was retained and reviewed the

¹ Although named as a Defendant, there is no legal entity known as "Union Square". It is simply a public square.

1 Complaint, he telephoned Plaintiff's counsel, whom he knows well from prior litigation, to inform
 2 him that JMBM had just been retained by UPC, and possibly the City and County of San Francisco.
 3 Mr. Orlick requested an extension of time to address potential conflicts, analyze the case and file a
 4 responsive pleading. While Mr. Thimesch would grant an extension of time to answer the
 5 Complaint, he refused to grant any extension of time to any Defendants to respond to the
 6 Complaint. Mr. Orlick advised Plaintiff's counsel that he could not compromise his client's rights to
 7 challenge the Complaint, simply because it was inconvenient for Plaintiff's counsel to face possible
 8 motion practice.

9 **RELIEF REQUESTED**

10 The inherent powers of the Court, as well as Local Rule 6-3, empower the Court to extend
 11 the time for a party to respond to a pleading for good cause shown. In this case, good cause exists
 12 to extend the time for Defendants to respond to claims regarding the alleged State and Federal
 13 access barrier violations, to investigate the facts, to consider resolution and litigation scenarios, to
 14 address potential conflicts, and to avoid unnecessary expense to both Plaintiff and the Defendants, if
 15 Plaintiff seeks the entry of a default of UPC or any other Defendants. By extending the time for
 16 Defendants to respond, the parties will be able to focus their resources on attempts to evaluate the
 17 alleged access violations and possibly resolve the case. Therefore, UPC prays that the Court grant
 18 the relief requested above and enter the (Proposed) Order.

19 Dated: August 30, 2007.

JEFFER, MANGELS, BUTLER & MARMARO LLP

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 21 By: /s/ Martin H. Orlick
 22 MARTIN H. ORLICK, ESQ.
 23 Attorneys for CITY OF SAN FRANCISCO UPTOWN
 24 PARKING CORPORATION, a California non-profit
 25 corporation
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